

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SHAWN JULY,

Plaintiff,

v.

STEPHEN D'ILIO, et al.,

Defendants.

Civil Action No. 16-4568 (MAS) (LHG)

MEMORANDUM AND ORDER

Plaintiff is proceeding, *in forma pauperis*, with a civil rights complaint filed pursuant to 42 U.S.C. § 1983. The Court previously dismissed the Complaint as time-barred. (Mem. Op. 2, ECF No. 6.) Plaintiff submitted an Amended Complaint (ECF No. 16), which the Court again dismissed, finding that with the exception of Plaintiff's solitary confinement claim, all other claims were still time-barred. (Mem. Op. 1-2, ECF No. 19.) With regard to the solitary confinement claim, the Court found that Plaintiff failed to state a claim because there is no federal constitutional right for a convicted prisoner to be free from solitary confinement. (*Id.* at 3 (citing *Sandin v. Conner*, 515 U.S. 472, 485 (1995)).) The Court, however, provided Plaintiff one final opportunity to amend the pleading, but warned that his failure to properly amend the pleading would result in a dismissal *with prejudice*. (*Id.* at 4.) Plaintiff filed a Second Amended Complaint, (ECF No. 23), which upon review still does not state a valid claim.

However, Plaintiff then filed a motion to submit a supplemental complaint. (ECF No. 25.) In this motion, Plaintiff includes additional allegations about his solitary confinement, including descriptions of the deplorable living conditions, and allegations that the solitary confinement lasted from March of 2013 to December 13, 2016, a period of almost four years. (*Id.* at 4.) Although the Court warned Plaintiff that failure to perfect his pleading a third time would result in a dismissal

with prejudice, in the interest of justice, and in light of the new allegations in the motion, the Court grants Plaintiff one final chance to submit an amended complaint. Plaintiff's third amended complaint shall be a complete pleading, serving to replace all previous pleadings, shall cure all defects identified in the Court's previous orders, and shall not contain any claims that this Court has already rejected which Plaintiff cannot plausibly perfect. Any claims dismissed from the third amended complaint will be *with prejudice*.


IT IS therefore on this 3rd day of April, 2018,

ORDERED that the Clerk shall **REOPEN** the case by making a new and separate docket entry reading "CIVIL CASE REOPENED";

ORDERED that Plaintiff's motion to submit a supplemental complaint (ECF No. 25) is hereby **GRANTED**;

ORDERED that within 30 days, Plaintiff shall submit an amended complaint that serves as a replacement for all previous pleadings, in a manner consistent with the Court's instructions herein; failure to submit such pleading will result in the dismissal of the matter *with prejudice*; and it is further

ORDERED that the Clerk shall serve this Order upon Plaintiff by regular mail.



MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE